

Message Text

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17

ACTION TRSE-00

INFO OCT-01 EA-10 ISO-00 NEA-09 IO-10 H-02 L-02 PRS-01

PA-02 USIA-15 SP-02 AID-05 EB-07 NSC-05 RSC-01

CIEP-02 SS-15 STR-04 OMB-01 CEA-01 CIAE-00 COME-00

FRB-01 INR-07 NSAE-00 XMB-04 OPIC-06 LAB-04 SIL-01

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R 310712Z JAN 75

FM AMEMBASSY MANILA

TO SECSTATE WASHDC 0273

INFO AMEMBASSYJAKARTA

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USADB

DEPT PASS TRSY FOR ZINMAN AND BRADFIELD

E.O. 11652: NA

TAGS: EAID, EFIN

SUBJECT: DRAWDOWN OF U.S. SPECIAL FUNDS CONTRIBUTION (ASIAN
DEVELOPMENT FUND)

SUMMARY: A U.S. EQUIPMENT SUPPLIER, DISCLOSING HIS SUBMISSION
OF TENDERS FOR AN ADB SPECIAL FUNDS FINANCED PROJECT -
EAST JAVA SUGAR - HAS QUERIED USADB RE SOURCING AND
COMPONENTRY QUESTIOS. SUPPLIER WISHES TO BE ASSURED
ELIGIBILITY HIS BID. IN INITIAL USADB DISCUSSIONS
THIS MATTER WITH BANK STAFF, IT APPARENT BANK DESIRES
USG INTERPRETATION MEANING AND INTENT LANGUAGE OF U.S.
CONTRIBUTION AGREEMENT. USADB HAS URGED SUPPLIER TO
MAINTAIN ALIDITY OF BID AND HAS ADVISED BANK WE RUESTING
U.S. TREASURY GUIDANCE ON MEANING OF AGREEMENT LANGUAGE.
END SUMMARY.

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1. U.S. SUPPLIER, DORR-OLIVER, STAMFORD CONNECTICUT,

TELEXED USADB RE THEIR SUBMISSION OF BID FOR SUGAR PROJECTS UNIT OF EAST JAVA SUGAR PROJECT FINANCED BY ADB SPECIAL FUNDS. SUPPLIER NOTED LANGUAGE IN TENDER NOTICE VOLUME 1, CLAUSE 17.5B, SPECIFIED 75 PERCENT U.S. COMPONENTRY. SUPPLIER INTENDS SOURCE 75 PERCENT OF HIS OFFER FROM U.S. AND REMAINING 25 PERCENT FROM WHOLLY-OWNED SUBSIDIARY DORR-OLIVER (INDIA). (INDIA IS ALSO ELIGIBLE SOURCE COUNTRY THIS TENDER.) SINCE EXECUTING AGENCY ISSUING TENDER SPECIFIED SINGLE CONTRACT, DORR-OLIVER WISHED TO BE ASSURED ITS TENDER WOULD BE CONSIDERED ELIGIBLE.

2. IN INITIAL DISCUSSIONS WITH BANK'S LOAN ADMINISTRATION AND LEGAL STAFF, STAFF NOTES THAT U.S. CONTRIBUTION AGREEMENT LANGUAGE ONRUOURCING (ARTICLE II, PARA C) MAKES TWO STIPULATIONS: THAT U.S. CONTRIBUTION CAN FINANCE PROCUREMENT OF GOODS (A) PRODUCED IN U.S. AND (B) WITH U.S. NATIONAL CONTENT OF 75 PERCENT.

3. THIS LANGUAGE APPARENTLY DID NOT PRECISELY ENVISAGE CIRCUMSTANCES IN PRESENT CASE, I.E., SUPPLIER INTENDS TO SHIP THE 25 PERCENT INDIAN COMPONENT DIRECTO TO INDONESIA.

4. ACCODINGLY, BANK STAFF REQUESTED USG GUIDANCE ON PROCEDURES RE POSSIBLE DISBURSEMENT IN THIS CASE, SUGGESTING POSSIBLE ALTERNATIVE APPROACHES: ONE ALTERNATIVE WOULD BE TO CONSIDER ENTIRE CONTRACT "PRODUCED IN UNITED STATES WITH A UNITED STATES NATIONAL CONTENT OF AT LEAST 75 PERCENT", IN WHICH CASE BANK WOULD ATTRIBUTE ENTIRE AMOUNT OF CONTRACT TO U.S. AND DISBURSE FULL AMOUNT FROM U.S. CONTRIBUTION. (IF TREASURY APPROVES THIS APPROACH, BANK WOULD FAVOR THIS COURSE OF ACTION THEREBY AVOIDING COMPLICATIONS TO BE NOTED BELOW.)

5. ANOTHER ALTERNATIVE WOULD BE TO ATTRIBUTE ONLY 75 PERCENT OF TOTAL CONTRACT TO U.S., DRAWING DOWN THAT PERCENTAGE FROM THE ATTRIBUTING DISBURSEMENTS TO U.S. CONTRIBUTION. THAT WOULD LEAVE BANK WITH PROBLEM OF HOW TO FUND RESIDUAL 25 PERCENT. ONE CONCEIVABLE SOURCE OF RESIDUAL WOULD BE SET-ASIDE FUNDS, BUT BEFORE THESE COULD BE UTILIZED, BANK WOULD HAVE TO MAKE DETERMINATION THAT OTHER RESOURCES WERE NOT AVAILABLE.

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6. POSSIBILITY OF SIMPLY DIVIDING TENDER INTO TWO CONTRACTS IS FORECLOSED BY EXECUTING AGENCY AND CONSULTANT'S PREFERENCE SPELLED OUT IN IFB FOR A SINGLE CONTRACT (ENTIRE TENDERING EXERCISE FOR THIS PROJECT FOR TECHNICAL REASONS IS ALREADY COMPLEX, WITH 17 SEPARATE BID CONTRACTS REQUIRED TO MEET TECHNICAL NEEDS AND ASSURE SUITABILITY FOR INTERNATIONAL TENDERING).

7. IN DISCUSSIONS WITH BANK STAFF, USADB NOTED JOINT OBJECTIVE OF BOTH BANK AND USG WAS TO FACILITATE DRAW-DOWN OF U.S. CONTRIBUTION, AND OF BENEFIT TO ALL PARTIES INCLUDING BORROWER, WAS ENCOURAGEMENT OF LARGEST NUMBER OF BIDS, INCLUDING U.S. SUPPLIERS, TO ASSURE LOWEST POSSIBLE COST. BANK STAFF, HOWEVER, RELUCTANT TO PRE-JUDGE ELIGIBILITY OF DORR-OLIVER'S TENDER UNTIL AUTHORITATIVE GUIDANCE RECEIVED FROM USG.

8. DORR-OLIVER NOTIFIED DIRECTLY BY USADB THAT THEIR INQUIRY HAD BEEN TAKEN UP WITH BANK AND THAT REQUEST FOR DETERMINATION ELIGIBILITY OF THEIR BID WAS BEING SUBMITTED TO WASHINGTON FOR DECISION.

SULLIVAN

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